

SEARCH AND SEIZURE — IMPEACHMENT — Defendant may not claim refusal to testify was based on possibility that illegally-obtained evidence might have been used to impeach his testimony — Revised 11/2009

A defendant cannot successfully appeal his conviction by claiming that his refusal to testify was based on the possibility that illegally-obtained evidence *might have been used* to impeach his testimony. *State v. Menard*, 135 Ariz. 385, 386, 661 P.2d 649, 650 (App. 1983). A trial court is correct in allowing such evidence to be admitted; the ruling prevents the defendant's proposed testimony from avoiding "the risk of confrontation with prior inconsistent utterances." *Id.*, quoting *Harris v. New York*, 401 U.S. 222, 226 (1971).